

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Christopher G. Wilson was a successful judicial candidate for the Humboldt Superior Court in the 1998 general election. Respondent Committee to Elect Christopher G. Wilson Judge of the Superior Court (the “Committee”) was the controlled committee of Respondent Christopher Wilson. Respondent Lelona R. Songy was the treasurer for Respondent Committee. This case arose from an audit of Respondent Committee by the Franchise Tax Board (“FTB”) for the period January 1, 1997 through December 31, 1998.

During the audit period, Respondents reported receiving contributions totaling \$98,177 and making expenditures totaling \$98,087. The FTB audit found that Respondents failed to file two late contribution reports, report sub-vendor information, and maintain adequate records regarding their activities, and additionally received prohibited cash contributions.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the “Act”)<sup>1</sup> are stated as follows:

**COUNT 1:** Respondents failed to file a late contribution report within 24 hours after receiving a \$3,000 contribution, on or about and between May 27 and June 1, 1998, in violation of Section 84203, subdivision (a).

**COUNT 2:** Respondents failed to file a late contribution report within 24 hours after receiving a \$1,000 contribution, on and about and between October 20 and October 23, 1998, in violation of Section 84203, subdivision (a).

**COUNT 3:** On or about and between January 1, 1998 and December 31, 1998, Respondents received ten cash contributions of \$100 or more, totaling \$1,600, in violation of Section 84300, subdivision (a).

**COUNT 4:** On campaign statements filed on or about and between January 1, 1998 and January 14, 1999, Respondents failed to report sub-vendor information, totaling \$68,896, in violation of Sections 84211, subdivision (j)(6) and 84303.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 5: On or about and between January 1, 1998 and December 31, 1998, Respondents failed to maintain adequate records and original source documentation to comply with the campaign disclosure provisions of the Act, in violation of Section 84104.

RESPONDENTS: Christopher G. Wilson, Committee To Elect Christopher G. Wilson Judge of the Superior Court, and Lelona R. Songy

## **SUMMARY OF THE LAW**

An express purpose of the Act, as stated in Section 81002, subdivision (a), is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish these purposes of disclosure.

### **Duty to File Late Contribution Reports**

When a candidate receives a “late contribution,” Section 84203, subdivision (a) requires the candidate and his or her controlled committee to file a late contribution report within 24 hours of receiving the contribution. A “late contribution” is defined in Section 82036 as a contribution aggregating \$1,000 or more, that is received before an election, but after the closing date of the last pre-election statement that is required to be filed. Under Section 84200.7, the closing date for the last campaign statement for an election held in June or November of an even-numbered year is 17 days before the election.

### **Prohibition Against Cash Contributions**

Section 84300, subdivision (a) states that no contribution of \$100 or more shall be received in cash. Section 84300, subdivision (c) requires all contributions of \$100 or more to be in the form of a written instrument containing the name of the contributor and drawn from the account of the contributor.

### **Duty to Report Sub-Vendor Information**

Section 84211, subdivision (j), as it was in effect in 1998,<sup>2</sup> required the disclosure of specific information for all expenditures of \$100 or more made during the period covered by the campaign statement, the name and street address of the person to whom the expenditure was made (the “payee”), the amount of the expenditure, and a brief description of the consideration that was received for the expenditure. If the person providing consideration is different from the payee, Section 84211, subdivision (j)(6) required that the disclosure also include the same information about the person who

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<sup>2</sup> Section 84211, subdivision (j) was subsequently renumbered. This provision now appears at Section 84211, subdivision (k).

provided consideration for the expenditure.

Section 84303, as it existed in 1998, required candidates and committees to report all expenditures of \$100 or more made by an agent on behalf of the candidate or committee, as if the candidate or committee made the expenditure directly. Those expenditures are commonly referred to as “sub-vendor” expenditures. Requiring committees to report sub-vendor information is necessary to prevent campaigns from being able to avoid having to disclose required information about their expenditures simply by making those expenditures through an agent.

### **Duty to Maintain Detailed Campaign Records, Bills and Receipts**

To ensure accurate disclosure of campaign activity, Section 84104 requires candidates and treasurers to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements and to comply with the campaign disclosure provisions of the Act. This requirement, as interpreted by Regulation 18401, subdivision (a), includes a duty to maintain detailed information and original source documentation. For campaign contributions of \$100 or more, Regulation 18401, subdivision (a)(3)(B) requires candidates and treasurers to maintain, in part, records reflecting the date of receipt of the contributions, bank account statements reflecting receipt of the contributions, and copies of contributor checks. For campaign expenditures of \$100 or more, Regulation 18401, subdivision (a)(4)(B) requires candidates and treasurers to maintain, in part, canceled checks. For loans received, Regulation 18401, subdivision (a)(5)(B) requires candidates and treasurers to maintain original source documentation reflecting the indebtedness. Regulation 18401, subdivision (b)(2) requires candidates and treasurers to maintain accounts, records, bills and receipts, and original source documentation for a period of four years following the date that the campaign statement to which they relate was filed.

### **Liability of Committee Treasurers**

Under Sections 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

### **SUMMARY OF THE FACTS**

Respondent Christopher Wilson was a judicial candidate for the Humboldt Superior Court in the 1998 primary and general elections. He was elected to the superior court in the November 3, 1998 general election. Respondent Committee to Elect Christopher G. Wilson Judge of the Superior Court was formed on January 5, 1998, and was controlled by Respondent Wilson. Respondent Lelona R. Songy was the treasurer for Respondent Committee.

The FTB conducted an audit of Respondent Committee's finances for the period January 1, 1997 through December 31, 1998, during which time Respondent Committee reported receiving contributions totaling \$98,177 and making expenditures totaling \$98,087. The audit found that Respondents had not substantially complied with the disclosure and record-keeping provisions of the Act.

#### COUNTS 1-2

##### **Failure to File Late Contribution Reports**

In 1998, the late reporting period for the June 2, 1998 primary election was from May 17 through June 1, 1998, and for the November 3, 1998 general election was from October 18 through November 2, 1998. During each of those late reporting periods, Respondents had a duty to report any contribution of \$1,000 or more, on a late contribution report, within 24 hours of receiving the contribution.

During the late reporting period before the primary election, on or about and between May 27 and June 1, 1998, Respondents received a late contribution for \$3,000 from Scott J. Esparza & Company. Respondents did not file a late contribution report disclosing this contribution. However, they disclosed the contribution on Respondent Committee's semi-annual statement for the reporting period ending June 30, 1998.

During the late reporting period before the general election, on or about and between October 20 and 23, 1998, Respondents received a late contribution for \$1,000 from Larry Rhodes. Respondents did not file a late contribution report disclosing this contribution. However, they disclosed the contribution on Respondent Committee's semi-annual statement for the reporting period ending December 31, 1998.

By failing to file two late contribution reports, Respondents violated Section 84203, subdivision (a).

#### COUNT 3

##### **Receiving Illegal Cash Contributions**

During their election campaign, Respondents were prohibited from receiving any campaign contributions of \$100 or more in the form of cash. The FTB audit found that Respondents received ten cash contributions, totaling \$1,600, from six contributors during the election year, as follows:

<b>Contributor</b>	<b>Date Received</b>	<b>Amount</b>
Jason Singleton	2/9/98	\$ 400.00
Dino Carlini, Sr.	2/20/98	\$ 100.00
	3/23/98	\$ 100.00
	5/1/98	\$ 100.00
	5/12/98	\$ 100.00

	5/29/98	\$ 100.00
Mary Scott	5/4/98	\$ 400.00
Cameron Cardoza	10/10/98	\$ 100.00
Ida Frye Crnich	10/16/98	\$ 100.00
William and Bonnie Thompson	11/2/98	\$ 100.00
Total		\$1,600.00

Respondents, who were not aware of the prohibition, kept detailed records to support the cash contributions received.

By receiving ten cash contributions of \$100 or more, Respondents violated Section 84300, subdivision (a).

#### COUNT 4

##### **Failure to Report Sub-Vendor Information**

Respondents were required to report specific information regarding expenditures of \$100 or more made by any agent on behalf of Respondent Wilson or Respondent Committee, as if either of them had made the expenditures directly. The FTB audit found that Respondents disclosed payments to Sirius Studios, Aahlberg & Cox, and two other vendors, but that they did not disclose information about the \$68,896 in sub-vendor payments made by those entities. These sub-vendor payments were made throughout 1998, and were primarily made for print and broadcast advertising. Of the total sub-vendor payments, \$53,124 was unreported before the election, and \$15,722 was unreported after the election.

Although the total amount of the sub-vendor payments that were not disclosed was not excessively large, the non-disclosure amounted to 70 percent of the total expenditures made by Respondent Committee during the audit period.

By failing to report sub-vendor information on Respondent Committee campaign statements, Respondents violated Sections 84211, subdivision (j)(6), and 84303.

#### COUNT 5

##### **Failure to Maintain Adequate Campaign Records**

To ensure accurate reporting, Respondents were required to maintain records and original source documentation for contributions received and expenditures made. The FTB audit found that Respondents did not maintain copies of contributor checks for monetary contributions totaling \$28,612, to substantiate the identity of the contributions, and did not maintain records of the date of receipt for any contributions received. Because Respondents did not maintain the receipt dates of contributions, the FTB auditor was not able to determine the exact dates that late contribution reports were required to be filed. (See above, Counts 1 and 2.) Respondents, however, at least provided lists containing the names of their contributors and the amount received from each contributor for \$18,962 of the

contributions that Respondent Committee received.

Respondents also did not maintain campaign bank account statements or canceled checks, to substantiate their expenditures, although the harm flowing from this failure to maintain records was partly offset by Respondents' maintenance of a check register, duplicate deposit slips, and invoices. Further, Respondents did not maintain copies of contributor checks and documentation to substantiate the original source(s) of a \$21,000 loan, disclosed as having been received on April 23, 1998, from Respondent Wilson.

Respondents furnished Enforcement Division staff with copies of bank statements and canceled checks subsequently obtained from Respondent Committee's financial institution, and loan documentation, which resulted in no additional material discrepancies other than those noted in the FTB audit report.

By failing to maintain records and original source documentation to substantiate their reporting, Respondents violated Section 84104.

## **CONCLUSION**

This matter consists of five counts, which carry a maximum administrative penalty of Ten Thousand Dollars (\$10,000).

Respondents committed numerous campaign reporting violations; however, none of the violations appears to have triggered any great public harm, and all of them appear to flow from either ignorance of the law or negligence in complying with it.

Regarding Counts 1 and 2, under the Enforcement Division's Streamlined Late Contribution Enforcement Program, the approved administrative penalty for failing to timely disclose a late contribution is 15 percent of the amount of the undisclosed contributions. Although this case has been excluded from the Program, due to Respondents' additional reporting violations, the late contribution reporting violations in this case do not appear to be especially aggravated, so a penalty approximating that standard penalty is appropriate.

Regarding Count 3, the receipt of cash contributions has historically been considered a very serious violation, as it can prevent tracking of the true source of campaign contributions. However, Respondents appear to have committed this violation out of ignorance of the prohibition against accepting cash contributions, and mitigated the harm from receiving cash by keeping a detailed record of the source of the contributions and by disclosing the contributions. Accordingly, imposition of a single maximum penalty for all the cash contributions appears appropriate.

As for the violation in Count 4, Respondents' failure to disclose sub-vendor information for approximately 70 percent of its expenditures is quite significant. A majority of the unreported sub-vendor payments occurred before the election. As such, a single maximum penalty for all of

Respondents' sub-vendor non-disclosure throughout the audit period is appropriate.

Finally, for the violation in Count 5, the failure to maintain adequate records is generally deemed a very serious violation, as it inhibits the ability of campaign auditors to confirm or discredit the accuracy of a committee's campaign reporting. In this instance, Respondents' record keeping was very incomplete, but there was no indication that this failure to keep records was any more than negligent. Accordingly, a single maximum penalty for all of Respondents' record keeping failures throughout the audit period seems appropriate.

Taken as a whole, the facts of this case therefore justify imposition of the agreed upon administrative penalty of Six Thousand Dollars (\$6,000).